

REMARKS

Initially, Applicant would like to express appreciation to the Examiner for the detailed Official Action provided and for the acknowledgment of Applicant's Claim for Priority and receipt of the certified copy of the priority document. Applicant also notes that the Examiner has not indicated that the drawings have been approved by the Official Draftsperson on a Form PTO-948. The Examiner is thus requested to indicate that Applicant's drawings are acceptable in the next Official Action.

Applicant acknowledges with appreciation the Examiner's indication of allowable subject matter in claims 3-5 and 8-10.

Upon entry of the above amendment, claims 1 and 7 will have been amended, and new claims 12-17 have been added. Accordingly, claims 1-17 are currently pending. Applicant respectfully requests reconsideration of the outstanding rejection and allowance of claims 1-17 in the present application. Such action is respectfully requested and is now believed to be appropriate and proper.

The Examiner has rejected claim 7 under 35 U.S.C. § 102(e) as being anticipated by NAKAO et al. (U.S. Patent No. 6,636,264).

Although Applicant does not necessarily agree with the Examiner's rejection of the claims on this ground, nevertheless, Applicant has amended independent claim 7 to clearly obviate the above noted ground of rejection in order to expedite prosecution of the present

application. In this regard, Applicant notes that NAKAO et al. fails to show each and every element recited in the amended claim. In particular, claim 7, as amended, sets forth a recording operation control device including, inter alia, a processor that performs a “recording operation by which said image data is recorded in a recording medium” and “a recording operation stopping processor that stops said recording operation while said recording operation is being executed and before said recording operation is completed”. In the present invention, the recording operation in the recording medium can be stopped by depressing the recording operation stop switch 97 or the shutter button 93. The recording operation may be terminated even during execution of a recording operation in the recording medium. This operation is described at least on page 12, lines 2-12, and page 13, lines 13-16 of the specification, and in figure 3B.

However, the NAKAO et al. patent discloses the operation of an electronic camera in which, while a preview image is displayed on the LCD 42, if the lower key of the cross key 46 is depressed, the preview image is not stored in the recording medium. Therefore, in the NAKAO et al. operation, the recording operation can not be stopped during execution of the recording operation. The NAKAO et al. patent discloses that an operator may elect not to store a preview image in the recording medium. However, NAKAO et al. does not disclose stopping a recording operation in a recording medium during execution of the recording operation. Additionally, the Examiner has taken the position, as stated by the

Examiner, that the recording operation is “being interpreted to be the entire process of collecting the image data, previewing the image, and making a determination as to whether or not to store the image”. However, claim 7, as amended, recites, inter alia, a “recording operation by which said image data is recorded in a recording medium”. The steps of the NAKAO et al. process including collecting the image data, previewing the image, and making a determination as to whether or not to store the image are not steps of recording *in a recording medium*; and the NAKAO et al. step of determining not to store an image in the smart medium is not a step of stopping a recording operation *while a recording operation is being executed and before a recording operation is completed*. Therefore, the NAKAO et al. patent does not show a device including a processor that performs a “recording operation by which said image data is recorded in a recording medium” and “a recording operation stopping processor that stops said recording operation while said recording operation is being executed and before said recording operation is completed”, as set forth in amended claim 7. Since the reference fails to show each and every element of the claimed device, the rejection of claim 7 under 35 U.S.C. § 102(e) over NAKAO et al. is improper and withdrawal thereof is respectfully requested.

The Examiner has rejected claims 1 and 2 under 35 U.S.C. § 103(a) as being unpatentable over NAKAO et al. in view of SUETAKA et al. (U.S. Patent No. 5,032,930).

Although Applicant does not necessarily agree with the Examiner's rejection of claims 1 and 2 on this ground, nevertheless, Applicant has amended independent claim 1 to clearly obviate the above noted ground of rejection in order to expedite prosecution of the present application. In this regard, Applicant notes that NAKAO et al. and SUETAKA et al. fail to teach or suggest the subject matter claimed in amended claim 1. In particular, claim 1, as amended, sets forth a recording operation control device including, inter alia, a processor that performs a "recording operation by which said image data is recorded in a recording medium" and "a recording operation stopping processor that stops said recording operation while said recording operation is being executed and before said recording operation is completed". As described above, in the present invention, the recording operation in the recording medium can be stopped by depressing the recording operation stop switch 97 or the shutter button 93. The recording operation may be terminated even during execution of a recording operation in the recording.

However, as described above, the NAKAO et al. patent discloses the operation of an electronic camera in which the recording operation can not be stopped during execution of the recording operation. Therefore, the NAKAO et al. patent does not show a device including a processor that performs a "recording operation by which said image data is recorded in a recording medium" and "a recording operation stopping processor that stops

said recording operation while said recording operation is being executed and before said recording operation is completed”, as set forth in amended claim 1.

The SUETAKA et al. patent is directed to an electronic still camera in which a shutter button is used when erasing an image recorded in a recording medium. SUETAKA et al. fails to teach or suggest a recording operation control device including a processor that performs a recording operation that records image data in a recording medium and a recording operation stopping processor that stops a recording operation during execution and before completion of the recording operation. Therefore, the SUETAKA et al. patent fails to cure the deficiencies of the NAKAO et al. device, and even assuming, arguendo, that the teachings of NAKAO et al. and SUETAKA et al. have been properly combined, Applicant’s claimed recording operation control device would not have resulted from the combined teachings thereof.

Further, there is nothing in the cited prior art that would lead one of ordinary skill in the art to make the modification suggested by the Examiner in the rejection of claim 1 under 35 U.S.C. § 103(a) over NAKAO et al. in view of SUETAKA et al. Thus, the only reason to combine the teachings of NAKAO et al. and SUETAKA et al. results from a review of Applicant’s disclosure and the application of impermissible hindsight. Accordingly, the rejection of claim 1 under 35 U.S.C. § 103(a) over NAKAO et al. in view of SUETAKA et al. is improper for all the above reasons and withdrawal thereof is respectfully requested.

Applicant submits that dependent claims 2, 6, and 11, which are at least patentable due to their dependency from claims 1 and 7 for the reasons noted above, recite additional features of the invention and are also separately patentable over the prior art of record based on the additionally recited features.

Applicant submits that none of the references of record, considered alone or in any proper combination thereof, anticipate or render obvious Applicant's invention as recited in newly submitted claims 12-17. Further, claims 3-5 and 8-10, which the Examiner has indicated contain allowable subject matter, have been rewritten in independent form as claims 12-17, respectively.

Accordingly, Applicant respectfully requests reconsideration and withdrawal of the rejections, and an early indication of the allowance of claims 1-17.

COMMENTS ON EXAMINER'S STATEMENT OF REASONS FOR ALLOWANCE

In response to the Reasons for Allowance, Applicant wishes to clarify the record with respect to the basis for the patentability of claims in the present invention.

In this regard, while Applicant does not disagree with the Examiner's indication that (as noted by the Examiner) "the prior art fails to teach or reasonably suggest stopping the recording operation by depressing the shutter button a plurality of times within a predetermined period"; "the prior art fails to teach or reasonably suggest stopping the recording by stopping an exposure of the imaging device"; "the prior art fails to teach or

reasonably suggest stopping the recording by stopping a reading operation of an image signal from the imaging device”; and “the prior art fails to teach or reasonably suggest that the recording operation is stopped by operating both the recording operation stop switch and the shutter button”; Applicant further wishes to make clear that the claims in the present application recite a combination of features, and that patentability of these claims is also based on the totality of the features recited therein, which define over the prior art.

#### SUMMARY AND CONCLUSION

In view of the foregoing, it is submitted that the present amendment is proper and that none of the references of record, considered alone or in any proper combination thereof, anticipate or render obvious Applicant’s invention as recited in claims 1-17. The applied references of record have been discussed and distinguished, while significant claimed features of the present invention have been pointed out.

Accordingly, consideration of the present amendment, reconsideration of the outstanding Official Action, and allowance of the present amendment and all of the claims therein are respectfully requested and now believed to be appropriate.

Applicant has made a sincere effort to place the present application in condition for allowance and believes that he has now done so.

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Applicant notes that this amendment is being made to advance prosecution of the application to allowance, and should not be considered as surrendering equivalents of the territory between the claims prior to the present amendment and the amended claims.

Should there be any questions, the Examiner is invited to contact the undersigned at the below listed number.

Respectfully submitted,  
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